

(f) If you deny payment of a claim presented to you under § 253.60, then you must give the claimant a written explanation for your denial.

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Subpart C—Methods for Demonstrating OSFR

§ 253.20 What methods may I use to demonstrate OSFR?

As the designated applicant, you may satisfy your OSFR requirements by using one or a combination of the following methods to demonstrate OSFR:

- (a) Self-insurance under §§ 253.21 through 253.28;
- (b) Insurance under § 253.29;
- (c) An indemnity under § 253.30;
- (d) A surety bond under § 253.31; or
- (e) An alternative method the Director approves under § 253.32.

§ 253.21 How can I use self-insurance as OSFR evidence?

(a) If you use self-insurance to satisfy all or part of your obligation to demonstrate OSFR, you must annually pass either a net worth test under § 253.25 or an unencumbered net asset test under § 253.28.

(b) To establish the amount of self-insurance allowed, you must submit evidence of your net worth under § 253.23 or evidence of your unencumbered assets under § 253.26.

(c) You must identify a U.S. agent for service of process.

§ 253.22 How do I apply to use self-insurance as OSFR evidence?

(a) You must submit a complete Form MMS-1018 with each application to demonstrate OSFR using self-insurance.

(b) You must submit your application to renew OSFR using self-insurance by the first calendar day of the 5th month after the close of your fiscal year. You may submit to MMS your initial application to demonstrate OSFR using self-insurance at any time.

§ 253.23 What information must I submit to support my net worth demonstration?

You must support your net worth evaluation with information contained

in your previous fiscal year's audited annual financial statement.

(a) Audited annual financial statements must be in the form of:

(1) An annual report, prepared in accordance with the generally accepted accounting practices (GAAP) of the United States or other international accounting practices determined to be equivalent by MMS; or

(2) A Form 10-K or Form 20-F, prepared in accordance with Securities and Exchange Commission regulations.

(b) Audited annual financial statements must be submitted together with a letter signed by your treasurer highlighting:

(1) The State or the country of incorporation;

(2) The total amount of the stockholders' equity as shown on the balance sheet;

(3) The net amount of the plant, property, and equipment shown on the balance sheet; and

(4) The net amount of the identifiable U.S. assets and the identifiable total assets in the auditor's notes to the financial statement (*i.e.*, a geographic segmented business note).

§ 253.24 When I submit audited annual financial statements to verify my net worth, what standards must they meet?

(a) Your audited annual financial statements must be bound.

(b) Your audited annual financial statements must include the unqualified opinion of an independent accountant that states:

(1) The financial statements are free from material misstatement, and

(2) The audit was conducted in accordance with the generally accepted auditing standards (GAAS) of the United States, or other international auditing standards that MMS determines to be equivalent.

(c) The financial information you submit must be expressed in U.S. dollars. If this information was originally reported in another form of currency, you must convert it to U.S. dollars using the conversion factor that was effective on the last day of the fiscal year pertinent to your financial statements. You also must identify the source of the currency exchange rate.